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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,744

02/03/2005

Martin M. Browne

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GE HEALTHCARE, INC.
IP DEPARTMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

EXAMINER

STIGELL, THEODORE J

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

04/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,744	Applicant(s) BROWNE, MARTIN M.	
	Examiner THEODORE J. STIGELL	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 1-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-17 are objected to because of the following informalities: The preamble of the claim is confusing. The examiner notes that the limitation "connectable with an automatic syringe pump for a hand-held syringe and a hand-held syringe" is a functional limitation and that neither the pump nor the syringe is positively recited. Therefore, it is redundant to recite "and a hand-held syringe". Furthermore, the claims are not consistent with the use of "hand-held syringe" and "syringe". The claims seem to use the terms interchangeably. The examiner also suggests using the term "syringe" only to be more consistent with the terminology used in the specification. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 is a method claim, but the claim has no method steps recited. The examiner is interpreting claim 20, as currently recited, as one long preamble.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 and 16-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider et al. (US 2002/0077588). Claim 1 is being interpreted as positively claiming an adapter comprising a syringe driver, wherein the syringe driver is capable of rotating the syringe body. The examiner notes that the limitation of "connectable" with a syringe pump and syringe is a functional limitation which the reference only has to have the capability of performing. The examiner is interpreting "connectable" as the ability of two elements to come into contact with each other. Therefore, the functional limitations are not being given much patentable weight. The

examiner also notes that the positively recited limitation of a syringe driver is broad too. The term "syringe driver" by itself does not denote any specific structural limitation and therefore the examiner maintains that any structure that can rotate a syringe body can be interpreted as a "syringe driver".

In regards to claim 1-10, 16-17, and 19-20, Schneider discloses an adapter (24, 30b, 30a) that is connectable with a syringe pump (31, 32, 23) and a syringe (22), the adapter comprising a syringe driver (24, 30b) for rotating the syringe body, the adapter comprising an adapter body (24, 30b, 30a) that is capable of being received by a syringe receiving unit of a syringe pump, further comprising a syringe retainer (30a) comprising an annular flange that is capable of engaging a flange of a syringe, wherein the syringe driver further comprises a motor (25) and drive means (31) for rotating the syringe body, wherein (30b) can be considered a belt, wherein the adapter is capable of being recognized by a size-reading unit, wherein the retainer is offset from the adapter body, and wherein the adapter can be arranged parallel to the syringe.

Claims 1-6 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Friedman (4,357,971). Friedman discloses an adapter (10) that is capable of being connected to a syringe pump and syringe comprising a syringe driver (portion of 10 engaged with syringe) that is capable of rotating the syringe body. The examiner maintains that if the adapter (10) was rotated, the syringe would be rotated as well. Further comprising a syringe retainer (36) comprising an annular ring, a cylindrically shaped portion (30) that could be received by a pump, a syringe holding arm (38), a

guide piston (52), an extension arm (56), and a dispense rod (end of 56 that engages 20) that is rotatable to the extension arm.

Claims 1-10, 16-17, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Trombley, III et al. (6,575,930). See Figures 4-7 and the respective portions of the specification. Trombley discloses multiple embodiments of an adapter that rotates a syringe.

Response to Arguments

Applicant's arguments with respect to claims 1-17 and 19-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THEODORE J. STIGELL whose telephone number is (571)272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Theodore J Stigell/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763